

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

YU LIN,

Plaintiff,

v.

UNIVERSITY OF NEBRASKA,

Defendant.

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CASE NO. 4:05CV3153

MEMORANDUM AND ORDER

This matter is before the court on the Notice of Appeal (Filing No. 138) filed by the plaintiff, Yu Lin, and Lin's motion to proceed in forma pauperis ("IFP") on appeal. (Filing No. 139).

Before granting a motion to proceed IFP on appeal, a district court must determine whether an IFP appeal is taken in good faith. See 28 U.S.C. § 1915(a)(3) ("an appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith"). To proceed IFP on appeal, a petitioner must show both "a financial inability to pay the required fees and the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal." McIntosh v. United States Parole Comm'n, 115 F.3d 809, 812 (10th Cir. 1997). Having considered the record in this action, the court finds that plaintiff is financially eligible and the appeal is taken in good faith. Therefore, the plaintiff may proceed IFP on appeal, and the Clerk of Court shall process the appeal to the Eighth Circuit Court of Appeals.

IT IS ORDERED:

1. Plaintiff's motion to proceed IFP on appeal (Filing No. 139) is granted;
2. That the Clerk shall process the appeal to the Eighth Circuit.

DATED this 1st day of November, 2006.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge